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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
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2009 NOV 18 P 2:48

Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF) DOCKET NO. T-20567A-07-0662
NEWPATH NETWORKS, LLC, FOR APPROVAL)
OF A CERTIFICATE OF CONVENIENCE AND) **Update on Negotiations with**
NECESSITY TO PROVIDE TRANSPORT AND) **Municipalities and Home**
BACKHAUL TELECOMMUNICATIONS) **Owner's Associations**
SERVICES)

The following is an update on negotiations between NewPath Networks, LLC ("NewPath") and the City of Scottsdale, the Town of Paradise Valley and the Town of Carefree, in addition to any Home Owner's Associations that will be impacted by NewPath's Distributed Antenna System ("DAS") currently proposed to be constructed in the State of Arizona.

City of Scottsdale. Following several months of discussion, on or about June 1, 2009 NewPath and the City of Scottsdale entered into two agreements establishing a framework for their relationship going forward which were approved by City Council on or about June 2, 2009 after a noticed public hearing on the matter. As a result of these agreements, the City of Scottsdale filed a Motion to Withdraw as a Party and a Notice to Withdraw Its Hearing Memorandum on June 10, 2009. To date, NewPath has applied for and received 123 development review board ("DRB") permits from the City of Scottsdale and twenty-eight (28) more applications for DAS nodes are pending approval by the City's DRB on November 19th, 2009. An overview of NewPath Networks' project is posted on the City's web site at http://www.scottsdaleaz.gov/projects/projectsinnews/Newpath_Networks.asp. Additionally, the web site includes a copy of each proposed and approved application. All future applications

1 will continue to be processed in accordance with the City of Scottsdale's Wireless
2 Communications Facilities (WCF) Ordinance (<http://www.scottsdaleaz.gov/codes/wireless.asp>)
3 and DRB procedures for processing WCF applications . These procedures include the
4 distribution of a public notice to all residents located within seven-hundred fifty feet (750') of a
5 proposed site, an open house meeting and public hearings for any facility located within one-
6 hundred fifty feet (150') of a residentially zoned parcel.

7
8 Town of Paradise Valley. Following several weeks of discussions, on September 29, 2009
9 NewPath and the Town of Paradise Valley entered into an agreement establishing the
10 relationship between NewPath and Paradise Valley going forward. This agreement was
11 executed by the Town Manager on September 29, 2009. Paradise Valley withdrew the Hearing
12 Memorandum filed with the Commission on or about October 2, 2009. A noticed public
13 hearing about DAS was held on October 8, 2009. Based on the feedback from the Town
14 Council and the Town Manager, NewPath agreed to host three (3) open house events about
15 NewPath's DAS for Paradise Valley residents. The first open house event was held on
16 November 12, 2009, the second is schedule for November 18, 2009 and a third will be held on
17 November 23, 2009. On or about December 3, 2009, NewPath will report to the Town Council
18 the feedback it received from residents about DAS and their design and location preferences for
19 the proposed facilities. On or about December 10th, 2009, NewPath and the Town will define
20 the application requirements, at a pre-application conference, needed to complete the special
21 use permit ("SUP") application in accordance with the Agreement adopted by the Town and
22 NewPath for issuing permits for NewPath's DAS master plan for the Town.

23
24 Town of Carefree. Following several weeks of discussion, NewPath and the Town of Carefree
25 entered into an agreement on September 29, 2009 establishing a framework for the relationship
26 between NewPath and Carefree going forward. This agreement was adopted by the Town
27 Council on October 22, 2009 after a noticed public hearing held on September 15, 2009 . On
28 October 23rd, 2009, Carefree filed a Motion to Withdraw as a Party and a Notice to Withdraw

1 the Hearing Memorandum filed by the Town. To date, NewPath has applied for four (4)
2 Conditional Use Permits ("CUP") from the Town of Carefree to construct portions of its DAS
3 within The Boulders, a gated community in Carefree. Future applications will be processed in
4 accordance with the Letter Agreement executed by the Town of Carefree and NewPath
5 Networks on October 21, 2009. Procedures for issuing permits for DAS will continue to
6 include the distribution of a public notice to residents located within five-hundred feet (500') of
7 a residentially zone parcel, an open house meeting and a public hearing.

8
9 The Boulders Homeowner's Association. Following several months of community outreach,
10 including but not limited to approximately 6 meetings with members of the Association, on
11 May 20, 2009 the Boulders Homeowners Association issued NewPath a Letter of Authorization
12 to install their facilities in the form of faux Saguaro cacti and two rooftop facilities at 10
13 locations inside their gated community. The Boulders is under the jurisdiction of the Town of
14 Carefree and the City of Scottsdale and each jurisdiction is processing the applications for
15 public hearings on November 19, December 3, December 17, 2009 and on or about January 11,
16 2010.

17
18 Happy Valley Ranch Homeowner's Association. Following several months of community
19 outreach, including but not limited to approximately 5 meetings with members of the
20 Association, on May 20, 2009 the Happy Valley Ranch Homeowner's Association and
21 NewPath, in the presence of the City of Scottsdale's General Manager of Planning & Building
22 (Dave Richert) and Senior Planner (Keith Niederer) agreed to suspend the application process
23 for one (1) sites proposed in the public right-of-way of the Happy Valley Ranch community
24 and one (1) site located in the public right-of-way outside the Community until a CC&N was
25 issued to NewPath. Upon receipt of the CC&N NewPath and the Happy Valley Ranch HOA
26 agreed to reconvene discussions about the proposed sites. The proposed sites are located in the
27 City of Scottsdale's public right-of-way and both are subject to the City's WCF Ordinance and
28 the public notice and hearing standards of the DRB.

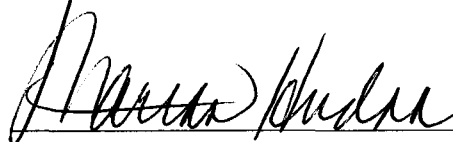
DC Ranch Covenant Commission and DC Ranch Community Council. Following several months of community outreach, including but not limited to approximately 7 meetings with members of the DC Ranch Covenant Commission and the DC Ranch Community Council, on or about October 19, 2009 DC Ranch issued NewPath a Letter of Support to install facilities at 7 traffic signal locations within the public-right-of-way located in the DC Ranch area.

Scottsdale Ranch Homeowner's Association. Following 9 months of community outreach, including but not limited to approximately 8 meetings with members of the Association, on March 31, 2009 the Scottsdale Ranch Homeowner's Association issued NewPath a Letter of Authorization to install facilities at 14 locations in or around their community.

Grayhawk Homeowner's Association. Following several months of community outreach, including but not limited to approximately 6 meetings with members of the Association, the Presidents of both the Grayhawk Community Association and the Retreat Village Association issued NewPath a Letter of Support for 13 public right-of-way locations and a Letter of Authorization for one private property location on September 7, 2009. To date, NewPath has secured permits for all 14 sites from the City of Scottsdale.

Respectfully submitted this 17th day of November, 2009.

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